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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,917	06/07/2001	Avinash Jain	010313	2508

23696 7590 10/10/2003

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

TRAN, PABLO N

ART UNIT	PAPER NUMBER
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2685

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DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,917

Applicant(s)

JAIN ET AL.

Examiner

Pablo N Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-12 are rejected under 35 U.S.C. 102(a) as being anticipated by *Kuhnel et al.* (EP0959582A1).

Regarding claims 1, 6, and 8, *Kuhnel et al.* disclose a method for generating a congestion metric indicator wherein determining an outer loop threshold as a function of a desired threshold, measuring a congestion metric, comparing the congestion metric to the desired threshold, and updating the outer loop threshold in response to the comparing results (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claim 2, *Kuhnel et al.* disclose the congestion metric is a rise over thermal measurement (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claims 3 and 7, *Kuhnel et al.* disclose comparing the congestion metric to the outer loop threshold and transmitting a congestion indicator in response to the comparing results (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claims 4-5 and 9, *Kuhnel et al.* disclose subtracting a first value from the outer loop threshold in response to the first result of comparing the congestion

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metric to the desired threshold and subtracting a second value from the outer loop threshold in response to the second result of comparing the congestion metric to the desired threshold wherein a ratio of the first value to second value correspond to a probability of exceeding the desired threshold of the congestion metric (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claim 10, *Kuhnel et al.* disclose the means for adjusting the outer loop threshold comprises of computer-readable instruction stored on a computer-readable storage unit (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claim 11, *Kuhnel et al.* disclose initialized the outer loop threshold to the desired threshold (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Regarding claim 12, *Kuhnel et al.* disclose determines the outer loop threshold having a predetermined margin with respect to the desired threshold (fig. 4-5, 7, and 9, pg. 4/ln. 5-45, pg. 9/ln. 32-pg. 11/ln. 31).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kim et al. (US2002/0141349A1), Kojima et al. (US2002/0173330A1), Tiedemann, Jr. et al. (US2002/0154610A1), Tiedemann, Jr. et al. (US2002/0034170A1), Kim et al. (6,456,850), Tiedemann, Jr. et al. (6,317,435), Lu et al. (6,519,462), Wu et al. (6,426,971), Wang et al. (5,878,098), Balachandran et al. (6,108,374) and Hayashi (5,978,428) disclose radiotelephone communication system.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)305-4385.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

PABLO N. TRAN
PRIMARY EXAMINER

September 30, 2003

